

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division

*de minimis* Concentration of Regulated Substances  
(LAC 33:XI.101) (UT010)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Underground Storage Tanks regulations, LAC 33:XI.101 (Log #UT010).

The proposed rule will clarify the existing regulation in a way that is consistent with the department's and the Environmental Protection Agency's long-standing interpretation and application of that regulation. The ambiguity of the term, *de minimis* concentration, has affected department enforcement actions directed at sub-standard USTs that have been in temporary closure for more than 12 months and that have not been upgraded or permanently closed according to department regulations. The basis and rationale for this rule are to provide clarification to the UST regulations when referring to *de minimis* concentrations of a regulated substance.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on May 27, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by UT010. Such comments must be received no later than June 3, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 765-0389 or by e-mail to [lynnw@deq.state.la.us](mailto:lynnw@deq.state.la.us). Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of UT010.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part XI. Underground Storage Tanks**

**Chapter 1. Program Applicability and Definitions**

**§101. Applicability**

A. ...

B. Exclusions. The following UST systems are excluded from the requirements of these regulations: The owner or operator must provide documentation for any exclusion claimed.

1. ~~a~~Any UST system holding hazardous wastes listed or identified in the Louisiana Department of Environmental Quality's Hazardous Waste Regulations or a mixture of such hazardous waste and other regulated substances is excluded from the requirements of these regulations;

2. ~~a~~Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act is excluded from the requirements of these regulations;

3. ~~e~~Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks is excluded from the requirements of these regulations;

4. ~~a~~Any UST system whose capacity is 110 gallons or less is excluded from the requirements of these regulations;

5. ~~a~~Any UST system that has never contained more than a de minimis concentration of regulated substances is excluded from the requirements of these regulations; and

6. ~~a~~Any emergency spill or overflow containment UST system that is expeditiously emptied after use is excluded from the requirements of these regulations.

C. – C.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:\*\*.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

LOG #: UT010

Person

Preparing

Statement:

Phone:

Verretta Johnson(225) 765-0399

Dept.:

Office:

Dept. of Environmental QualityEnvironmental Assessment

Return

Address:

7290 Bluebonnet Blvd.Baton Rouge, LA 70810

Rule

Title:

"de minimis" Concentration ofRegulated Substances(LAC 33:XI.101)

Date Rule

Takes Effect: Upon Promulgation**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No implementation costs or savings to state or local governmental units are expected as a result of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of state or local governmental units as a result of implementation of this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The proposed rule will have little effect on costs or benefits to regulated persons or groups. However, a small but undetermined number of additional regulated UST owners and operators may incur the cost of closure as a result of the clarification of the regulations. It is not possible at this time to estimate the additional cost, if any, which may result.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment are not expected to be affected as a result of the implementation of this rule.

\_\_\_\_\_  
Signature of Agency Head or Designee

\_\_\_\_\_  
LEGISLATIVE FISCAL OFFICER OR  
DESIGNEE

Robert P. Hannah, Deputy Secretary

Typed Name and Title of Agency Head or Designee

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Date of Signature

LFO 7/1/94

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule will clarify the existing regulation, in a way that is consistent with the agency's and the Environmental Protection Agency's long-standing interpretation and application of that regulation.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The ambiguity of the term, "de minimis" concentration, has affected department enforcement actions directed at sub-standard UST's that have been in temporary closure for more than 12 months and that have not been upgraded or permanently closed according to department regulations.

- C. Compliance with Act II of the 1986 First Extraordinary Session  
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule is not expected to result in any increase of expenditure of funds.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) \_\_\_\_ Yes. If yes, attach documentation.  
(b) \_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.

**FISCAL AND ECONOMIC IMPACT STATEMENT****WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 02-03	FY 03-04	FY 04-05
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.			
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule will have no effect on costs or savings to state agencies.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 02-03	FY 03-04	FY 04-05
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Additional funds are not needed to implement this rule.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

Local governmental units are not expected to be impacted as a result of the implementation of this rule.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable to the rule.



**FISCAL AND ECONOMIC IMPACT STATEMENT****WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 02-03	FY 03-04	FY 04-05
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	0	0	0

\*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There are no anticipated increases or decreases in revenues expected from the proposed rule.

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS**

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The proposed rule will clarify the existing regulation, in a way that is consistent with the agency's long-standing interpretation and application of that regulation. Therefore, this proposed rule will have little effect on costs or benefits to regulated persons or groups. However, a small but undetermined number of additional regulated UST owners and operators may incur the cost of closure as a result of the clarification of the regulations. It is not possible at this time to estimate the additional cost, if any, which may result.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be no impact on receipts and/or income resulting from this proposed rule to these groups.

#### **IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule will have no effect on competition and employment.